

### **Remarks**

Reconsideration and this application, and an indication of allowance is respectfully requested in view of the foregoing amendments and the following remarks.

The claims pending in this application are claims 1-10, and 12-33. Claims 1-10, 12, and 13 have been rejected. Claims 14-33 were newly presented along with the Request for Continued Examination.

The new claims presented with the Request for Continued Examination were copied from U. S. Patent No. 6,672,962, listed on the PTO-1449 form submitted with the Request for Continued Examination. Claim 14 is similar to claim 1 of the '962 patent, and claim 15 is similar to claim 3 of the '962 patent. Claims 14 and 15 are broader than the claims of the '962 patent in that they do not limit the means that interacts with the screen to light based means. New claims 16-33 correspond to claims 5-8, 19-22, 26-30 and 41-44 of the '962 patent. It is contended that the newly presented claims as well as the previously presented claims are patentable to applicants.

There is support for the above amendment to the present application based on the disclosure of FIG. 1 and the description on pages 3-8 of the specification plus the indication that the multidirectional control device 13 can be in any suitable ergonomic location. In a similar manner, switching button 14 can be in varied locations as well. Specifically, there is support for claims 14 and 15 in FIG. 1 showing pistol 1 with a gun barrel 11, a grip 10, and a trigger lever 12 to be operated by a player. The pistol 1 interacts with the display 3 to "determine the position of the projection of the shooting axis on the display system". (Page 6, lines 6-8). The controller 13 corresponds to the directional key and it is located at a rear portion of pistol 1 so that it can be operated by a player's thumb. Relative to claim 16, there is a description that the signals interact with the game system (page 6, lines 15-18). For claim 17, the directions are disclosed at page 6, line 23 to page 7, line 14. For claim 18 there is general disclosure of control of a game character or cursor. Claims 19 and 20 are supported by FIG. 1. Claim 21 is supported by the statement that button 14 can be placed in other locations. Claims 22, 23 and 24 are

supported by Fig.1. Claim 25 is supported by the general disclosure of the game player plus page 8, lines 1-3, Claim 26. Claims 26 to 32 are supported as discussed above plus the general description of the game player in the specification. Claim 33 is supported by page 6, lines 14-17.

The Examiner has rejected claims 1-10, 12, and 13 under 35 U.S.C. §103 as unpatentable over U.S. Patent No. 5,583,407 (Yamaguchi) in view of the 3D Zonemaster device described in various web pages previously cited by the examiner. This rejection is respectfully traversed.

The Examiner has considered the Yamaguchi device as properly combinable with the 3D Zonemaster. Applicant disagrees with this combination and in fact contends that a skilled artisan would not view these two devices as properly combinable. While the Examiner is correct that in column 7 beginning at line 62, the Yamaguchi patent does indicate that the device can be operated by hand, the complicated nature of the actions required by the controller of Yamaguchi make it completely inappropriate to combine this reference with the 3D Zonemaster and reject the claims of this application. In fact, the Examiner admits that there is no internal controller in Yamaguchi. In view of the vastly different types of game controllers disclosed in Yamaguchi and the secondary references, it is contended that there would be no motivation for a skilled artisan to combine these references as the examiner has done.

The controller of Yamaguchi requires a complicated series of motions to control the actor within the game system. These actions include moving the hand or foot up or down, left or right and in or out. While executing these complicated motions with either the hand or foot, the player simultaneously uses the other hand or one hand if using a foot controller to aim the pistol at various targets. This is a complicated and highly difficult series of maneuvers to execute at the same time and it is contended that a person looking at Yamaguchi would also recognize that the 3D controller requires the user to execute complicated motions to control the actor in a 3D game. Clearly there is no suggestion or disclosure that these complicated motions can be combined into an integral or single

device. It is the Applicant's position that there is no *prima facie* case of obvious based on the combination of these two references. Indeed without the impermissible use of hindsight, there would be no reason to combine these widely divergent game controlling systems, especially in view of the fact there is no motivation to combine these divergent systems as discussed above.

As previously discussed with the Examiner, the 3D Zonemaster device is also a relatively complicated controller device, which uses ultrasonic triangulation to partially control the actor within a pistol game. Indeed the motions required to control an actor with the 3D Zonemaster device tends to replicate the complicated foot or hand movement of the Yamaguchi device by movements. Indeed the following remarks quoted from the review at [www.gamesdomain.co.uk](http://www.gamesdomain.co.uk) support this position. "Once activated the device becomes a wireless mouse that will not only track side-to-side movement and up or down movement (and everything in between) and also backwards and forward movement." The reviewer finds these movements very difficult to control the actor on the screen.

Further, there really is no disclosure of the specific functions of the integral controller that is located on the top of the 3D Zonemaster. It is contended that the specific disclosure of these two references, the Yamaguchi patent and the 3D Zonemaster, do not contain any disclosures and would not have led a person of ordinary skill in the art to provide an integrated controller device as required by the claims of the present application. For this reason, it is contended that the Examiner's rejection of all the claims under 35 U.S.C. §103 is inappropriate as being based on an improper combination based on a hindsight reconstruction of the Yamaguchi device combined with the 3D Zonemaster device.

Enclosed is a copy of the statement made under Rule 608(a) that was submitted with the Request for Continued Examination. As noted in that document, applicants believe that they are entitled to priority of invention verses Ozaki, et. al.

Appl. No. 09/719,706  
Amdt. Dated November 4, 2004  
Reply to O. A. of October 27, 2004

In view of the above remarks, it is now believed that the claims present allowable subject matter. An early indication of allowance and/or a declaration of an interference is respectfully requested.

Respectfully submitted,

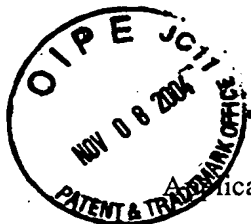
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Dated: November 3, 2004

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Gabriel Guary

Serial No.: 09/719,706

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For: PISTOL FOR VIDEO GAMES

Group Art Unit: 3714

Examiner: Steven L. Ashburn

Docket No.: 28944/40064

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**CERTIFICATE OF MAILING**

I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this date:

July 22, 2004

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**STATEMENT UNDER RULE 1.608(a)**

GABRIEL GUARY and EMMANUEL MERCIER, through their attorney, state that they believe that there is interfering subject matter in the present application and in U. S. Patent No. 6,672,962, hereinafter the '962 patent, and that they invented the invention described in the claims presently presented in the present application prior to the earliest priority date of the '962 patent and also prior to the date of invention of the subject matter as claimed in the '962 patent.

The effective dates of the present application and the '962 patent are 33 days apart. The present application is based on the designation of the United States in a Patent Cooperation Treaty application filed on June 15, 1999. The '962 patent is based on the designation of the United States in a patent cooperation treaty application filed on May 13, 1999.

Applicants respectfully request the United States Patent and Trademark Office declare an interference so that the priority of invention can be determined.

Respectfully submitted,

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